IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

MONDAY, THE 19TH MARCH 2007 / 28TH PHALGUNA 1928

WP(C).No. 26682 of 2005(B)

PETITIONER:

K. BHASKARAN, ASSISTANT ENGINEER
(RETIRED), K.S.E.B., ELECTRICAL SECTION
BURNASSERY, RESIDING AT NEERAJ,
P.O. EDAKKAD, KANNUR DISTRICT.

BY ADV. SRI.P.M.PAREETH

RESPONDENTS:

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1. KERALA STATE ELECTRICITY BOARD
REPRESENTED BY ITS SECRETARY, VIDYUTHI BHAVANAM,
PATTOM, THIRUVANANTHAPURAM.

2. CHIEF ENGINEER (HRM),
KERALA STATE ELECTRICITY BOARD,
VIDYUTHI BHAVANAM, PATTOM, THIRUVANANTHAPURAM.

3. ACCOUNTS OFFICER, PENSION AUTHORISATION
OFFICE OF THE CHIEF ENGINEER (HRM)
KERALA STATE ELECTRICITY BOARD,
VIDYUTHI BHAVANAM, PATTOM, THIRUVANANTHAPURAM.

4. EXECUTIVE ENGINEER, ELECTRICAL DIVISION
K.S.E.B., VIDYUTHI BHAVANAM, KANNUR-2.

BY ADV. SRI.K.S.ANIL, SC, KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

T.R.RAMACHANDRAN NAIR, J

W.P.(C).NO. 26682 OF 2005

Dated this the 19th Day of March, 2007.

The petitioner was working as an Assistant Engineer from 28.12.1976 with the Kerala State Electricity Board and he retired on superannuation from that post on 31.5.2003. Before he entered service in the Kerala State Electricity Board, he had a tenure from 26.3.1974 to 8.12.1976 in the Telecom Department, Government of India as Technician. The period of service rendered by him in the Telecom Department has also to be reckoned for the pensionary benefits and even though, petitioner submitted a representation prior to the retirement itself, that was sanctioned only after retirement as evidenced by Ext.P1. The operative portion of Ext.P1 reads as follows:-

> "5. Board examined the matter in detail and sanction is accorded to reckon the services rendered by Sri. K.Bhaskaran, Sub Engineer (Rtd.) in the Telecom Department for pensionary benefits in the Board condoning the break of 19 days from 6.12.1976 FN to 27.12.2006 AM. It is also ordered to recover the leave salary and pension contribution from

the incumbent in case the former employer fails to remit the same".

2. Since consequential actions were not forthcoming, the petitioner had been representing before the second respondent several times and ultimately he was given a reply by Ext.P2 directing him to remit an amount of Rs.25,916/-, towards pension contribution and interest at the rate of 10% on compounding basis. Actually prorata pension contribution for the period of his service under the Telecom Department comes to an amount of Rs.1839/- only and the balance amount represents the interest demanded. Petitioner took the stand that he is not liable to pay any interest as it is a case where the petitioner had volunteered to remit the pension liability since the Telecom Department did not remit the amount with the present employer. It was also pointed out that other employees have been allowed to remit the contribution without interest. The matter was represented by him again to the Chairman of KSEB, as evidenced by Ext.P4. Ultimately, the Board communicated Ext.P5, which was in favour of the petitioner in respect of the liability to pay interest. In that Board decided to waive the interest on the belated payment of pension liabilities.

3. But in Ext.P5 the request of the petitioner to remit the pro-rata pension by himself was declined and the Executive Engineer was directed to intimate the Telecom authorities to remit the amount of Rs.1,839/- towards pension liabilities. The above stand of the Board is based on Ext.P6 dated 1.9.2005. Ext.P6 has been passed by the Board after it received several representations from the employees who have prior service elsewhere for want of clarification. In paragraph 6 of Ext.P6, the Board decided to deny the request of the employees to remit the pro-rata pension contribution by the employees themselves in the event of the formal employer refusing to pay the pro-rata pension liability. The apparent challenge in this writ petition is against the stand adopted by the Board reflected in Exts.P5 and P6.

4. In the counter affidavit filed on behalf of the respondents, the issuance of Ext.P6 is justified and it is further stated that the prior service rendered by the petitioner in the Telecom Department can be reckoned provided the former employer remits a sum of Rs.1,839/- as pro-rata pension liabilities.

5. The Board as per Ext.P1 dated 12.1.2004 accorded sanction to reckon the service rendered by the petitioner in the Telecom Department for pensionary benefits and to recover the leave

salary and pension contribution from the incumbent in case the former employer fails to remit the same. There is no case for the respondents that this order was withdrawn at any time. What happened thereafter is only about the dispute regarding the liability to pay interest communicated to the petitioner as per Ext.P2. It is clear from the records produced that the pro-rata pension contribution is only Rs.1,839/- and the other amount demanded in Ext.P2 was the interest component only. The case of the petitioner is that since the Telecom Department has not remitted the amount of pension liability, the petitioner volunteered to remit the pension liability of the amount mentioned above. The petitioner has pointed out in paragraph 4 of the writ petition that in respect of one P.C. Dinesh and one Shri P.P.Govindan, the Board allowed to remit pension contribution without interest. This aspect is not disputed in the counter affidavit filed by the Board. Therefore, as far as the petitioner is concerned, as Ext.P1 has become final, the change in the guidelines as per Ext.P6 will not adversely affect him especially since Ext.P1 was not withdrawn at any time. Apart from that, paragraph 7 of Ext.P6 states that the Board decided not to reopen the cases settled in the past otherwise than in the above mentioned times and to regulate pending cases as per these guidelines. Therefore, it is clear that the Board never wanted

to reopen cases already settled.

6. In view of the above specific stipulation in Ext.P6, the request of the petitioner should have been allowed in his favour. It is clear from Ext.P1 that his case was settled earlier and the Board had granted sanction to reckon the service rendered by the petitioner in the Telecom Department for pensionary benefits and to recover the pension contribution from the petitioner in case of former employer fails to remit the same. In view of the above circumstances, I find that the respondents ought to have received the pension contribution of Rs.1,839/- from the petitioner and sanctioned the pension accordingly.

7. Hence, Ext.P5 as far as it directs the Telecom authorities to remit the amount of Rs.1,839/- without any interest for counting the past service rendered by the petitioner is quashed and the respondents are hereby directed to allow the petitioner to remit the amount and sanction the pension counting the period of service rendered by him in the Telecom Department, and disburse the arrears towards pensionary benefits expeditiously.

The writ petition is allowed as above. No costs.

T.R.RAMACHANDRAN NAIR
JUDGE.

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